

SUMMARY OF AND PROBLEMS WITH REPUBLICAN BILL

The Student Success Act (H.R. 5):

H.R. 5 makes significant changes to Title I (Improving Academic Achievement of the Disadvantaged). It also moves current law Title III (Language Instructions for Limited English Proficient and Immigrant Students) and Title VI-B (Rural Education Initiative) and inserts them as set-asides into Title I.

Title I – Aid to Local Educational Agencies

Portability: Title I portability language was adopted on the floor in the 113th Congress as the Cantor Amendment. This language would allow states to move funding away from schools and districts with high concentrations of poverty to low-poverty schools and districts. This undermines the original purpose of Elementary and Secondary Education Act (ESEA) as a program to help raise the achievement of low-income children.

Standards: Similar to current law, the Kline bill requires states establish standards in reading, math, and science. The Kline bill, however:

- Does not establish parameters to address the quality of the standards; and
- Does not require the standards to ensure college and career readiness by graduation.

As a result, H.R. 5 allows states to lower their standards to inflate their performance, as we saw occur with NCLB.

Assessments: Similar to current law, the Kline bill requires reading, math, and science assessments. It allows the assessments to measure growth, but does not require it. The Kline bill, however:

- Does not ensure assessments are high-quality or reflect the advancements in assessments over the past decade;
- Does not provide funding for audits of state and local assessment systems to ensure alignment and prevent duplication of tests;
- Does not require that states differentiate achievement levels of students;
- Eliminates the Grants for State Assessments program, which supports states in developing high-quality assessments but permits it to be an allowable use of funds under the Title I block grant(NOTE: High-quality assessments are expensive to develop and this

assessment program provides critical support to states to develop the next generation of assessment.);

- Permits computer adaptive assessments allowing for above and below grade level testing. (NOTE: With no restrictions on how these tests are used, any students can be held to below grade-level standards. There is also very limited research on how these assessments can be used for accountability and whether they are valid for measuring the actual performance of students with disabilities and English learners.)

Students with Disabilities: The Kline bill permits states to develop alternate achievement standards for students with the most significant cognitive disabilities. However, the Kline bill:

- Does not require states establish any parameters to determine which students should be assessed in this category; and
- Does not set a cap on the number of students included in this assessment.

Under current law, this policy is established through regulation. The proposal in the Kline bill eliminates the 1% and 2% caps in the regulation, both of which seek to ensure schools are still held accountable for the achievement of students with disabilities. Upon implementation of these caps, we have seen massive over-use of 2% assessments, leading to overclassification of students and gross inequity in access to quality curriculum. Not only does the Kline bill eliminate the caps, H.R. 5 prohibits the Secretary from reestablishing a cap on the students. With these provisions:

- All students with disabilities can be taught to a much lower standard than their peers;
- Large numbers of students with disabilities may be prevented from receiving a regular high school diploma; and
- This provision creates an incentive to over-identify children who are behind for special education to include them in the lower standard. Over-representation of low-income and minority students is already a problem in practice, and this provision could exacerbate that problem more.

English Learners: The Kline bill includes requirements that States establish English language proficiency standards and assessments. It does not, however, include requirements to improve English learner achievement over time, nor does it include requirements to establish native language assessments. In addition, H.R. 5 would allow districts to delay scores of English Learners in state accountability systems for two years on reading and three years on math assessments, increased from the one year delay allowed in current law. This threatens to dilute

accountability for English Learner students, allowing schools and districts to ignore the unique learning needs of this population.

Prohibitions: In the Kline bill, the Secretary is prohibited from creating any incentives for states to join any “common” efforts on standards and assessments. This would prohibit the Secretary from incentivizing participation in the Common Core standards and assessments through activities such as awarding competitive grants for implementation of innovative reforms. The bill then explicitly asserts that states, rather than the federal government, retain authority over education. H.R. 5 also prohibits the use of federal funds for sex education instruction or the distribution of “obscene material”.

Accountability: The Kline bill requires states to establish an accountability system and school improvement system to evaluate schools annually. The system:

- Must look at test scores and can include undefined “multiple measures” (NOTE: The bill does not establish any weights for these measures, leaving it vague and undefined what accountability systems would actually measure); and
- Must consider overall performance of students and of subgroups (the bill adds military dependent students as a subgroup population for whom schools must report achievement data).

The Kline bill:

- Does not require an overall goal for achievement;
- Does not require performance targets so that schools improve each year;
- Does not require graduation rates to be included;
- Does not include language on “n-size which would allow states to establish any subgroup size” allowing states to hide “hard to teach” students from accountability measures entirely; and
- Does not establish any parameters for identifying or improving low-performing schools.

Therefore, H.R. 5 provides no federal guardrails for student achievement. There would be no expectation that students graduate from high school. There would be little transparency for how schools are evaluated and little consistency from district to district or state to state. Additionally, subgroup performance could again be masked and go unaddressed due to no n-size restrictions.

School Improvement: The Kline bill contains vague language requiring a system of improvement for low-performing schools that includes interventions. However, the Kline bill:

- Does not define low-performing schools;
- Does not establish any parameters on “interventions;”
- Does not establish timelines for improvement; and
- Does not establish any consequences if schools do not improve within the system.

The Kline bill changes current law by:

- Repealing the School Improvement section (Sec. 1116);
- Eliminating the current set-asides under school improvement for choice and SES (NOTE: the bill includes a new mandatory 3% state set-aside to continue payments to providers for “direct student services” much like choice and SES in current law);
- Making technical changes to the Targeted and Education Finance Incentive Grants formulas, while holding all school districts “harmless”.
- Eliminating the School Improvement Grants, but increasing from 4% to 7% a state set-aside for school improvement; and
- Removing the “savings clause” which protects collective bargaining rights.

Prohibitions: The Kline bill prohibits the Secretary from clarifying or providing guidance on any of the standards, assessments, or accountability sections. This means that anything left vague by the language in the draft cannot be addressed by the Secretary through regulation or other means. For instance, regulations establishing requirements on graduation rates, the 1% cap for alternate assessments, and “n-size” cannot be established.

Report Cards

Similar to current law, the Kline bill requires annual state and local report cards. The report cards must include:

- Student achievement, disaggregated by subgroup;
- Participation rates on assessments disaggregated by subgroup;
- Performance on other indicators established by the State, disaggregated by subgroup;
- Graduation rates; disaggregated by subgroup;
- The school’s evaluation results under the new accountability system;
- English acquisition for English Learners;
- Results of the teacher evaluations under Title II, if applicable; and
- Results on the National Assessment of Education Progress (NAEP).

Program Consolidations

The Kline bill consolidates the following programs as percentage set-asides under Title I, Part A:

- English Language Learners (currently Title III);
- Education of Migratory Children (currently Title I-C);
- Neglected and Delinquent Students (currently Title I-D); and
- Rural Education Initiative (currently Title VI-B).

The proposed set-aside amount is close to the current appropriation for each.

The Kline bill also makes some programmatic changes to these consolidated programs as well, with the most notable changes including:

- For English learners, removal of annual measurable achievement objectives (performance targets) for English language acquisition; and
- A change in how migrant students are calculated under the formula to update the student counts.

“Flexibility”

The Kline bill allows for funds to be shared across what would be the new Title I, Part A, which would include the programs listed above: Title I, Part A, English Language Learners (currently Title III); Education of Migratory Children (currently Title I-C); Neglected and Delinquent Students (currently Title I-D); and Rural Education Initiative (currently Title VI-B). This change would effectively make Title I and the programs for special populations a new block grant and could allow funds to be redirected away from the intended population.

Funding

The Kline bill makes the following funding changes:

- It caps funding at FY 15 appropriations levels and prevents annual increases based on the inflation rate.
- It removes Maintenance of Effort requirements.
- It removes the 40% poverty threshold from school-wide programs meaning any Title I school could run a school-wide program regardless of their level of poverty.

The Kline bill would require an annual report from the Institute of Education Sciences (IES) on the reductions in federal spending if the bill were to become law.

Equitable Participation

The bill increases the rights of private schools and increases burdens on local and state educational agencies in providing equitable services to private school students.

Title II—Teacher Preparation and Effectiveness

The Kline bill authorizes just under \$3 billion for overall Title II funding with two main programs Supporting Effective Instruction (Title II-A) and Teacher and School Leader Flexible Grant (Title II-B).

Highly Qualified Teachers: The Kline bill eliminates the definition and any requirements related to highly qualified teachers. H.R. 5 allows, but does not require, districts to develop teacher evaluation systems that would determine teacher effectiveness. This is a change from H.R. 5 as introduced in the 113th Congress.

Title II, Part A—Supporting Effective Instruction: This program, which receives 75% of Title II funds, allows districts to develop teacher evaluation systems. The evaluation systems could:

- Use student achievement data as a “significant factor” in the evaluation with no definition of “student achievement data”;
- Use multiple measures with no definition of “multiple measures”;
- Require more than two categories for rating teacher performance;
- Be used to make personnel decisions; and
- Be developed with input from parents, school leaders, teachers and other staff.

The Kline bill lacks:

- Any requirements that low-income and minority students are not taught by less qualified and less effective teachers than their peers;
- Any connection between teacher preparation programs and their graduates impact on the students they teach.

The Kline bill changes the Title II formula to reduce the emphasis on poverty. Districts are also permitted to use these funds for professional development. Funding for class size reduction is capped at 10%.

Title II, Part B—Teacher and School Leader Flexible Grant: This program, which receives 25% of Title II funds, authorizes competitive grants for a variety of activities related to teachers and principals. Eligible entities include districts, districts in partnership with an Institution of Higher Education, a partnership between a district and a for-profit or non-profit organization, or a district in partnership with any combination of an Institute of Higher Education, or a for-profit or non-profit organization.

Funds may be used for a variety of activities related to teachers and principals, including performance pay, certification reform, teacher residency programs, differential, incentive, or bonus pay for teachers, and induction and mentoring programs. The activities must be consistent with the “principles of effectiveness” outlined in the bill which include:

- Assessment of data regarding the need for programs and activities;
- Evidence-based research or effective strategies in the field;
- Input from teachers, school leaders and parents.

The Kline bill repeals the Teacher Quality Partnership Grants in Title II of the Higher Education Act.

Title III—Parental Engagement and Local Flexibility

Title III, Part A, Subpart 1—Charter School Program: The Kline bill contains H.R. 10, from the 113th Congress, “Success and Opportunity through Quality Charter Schools Act”, with some changes:

- Clarifies charter school autonomy over personnel.
- Rests responsibility for sharing best practices between traditional public schools and charter schools on the state, rather than the charter school.
- Requires the Secretary of Education to consult with charter school representatives when issuing non-regulatory guidance.
- Clarifies that it is the state’s role to monitor authorizers.

Additionally, the Kline bill adds consultation with a charter school representative in development of both the state and Local Educational Agency (LEA) Title I plans.

Title III, Part A, Subpart 2—Magnet School Assistance: The Republican draft makes only technical changes to this program and removes all references to “challenging” state academic standards, and “high” quality education from this subpart.

Title III, Part A, Subpart 3—Family Engagement in Education Programs: This program authorizes \$25 million for grants to statewide organizations or consortia of such organizations and state educational agencies to establish Statewide Family Engagement Centers.

The Centers are intended to provide training and technical assistance to SEAs, LEAs, organizations that support family-school partnerships, and other organizations that carry out parent education and family engagement in education programs. In addition to setting up Statewide Family Engagement Centers, statewide organizations or consortia must also establish a

special advisory committee comprised of parents, representatives of education professionals, representatives of local elementary and secondary schools, representatives of business, and representatives of SEAs and LEAs.

Title III, Part B—Local Academic Flexible Grant: This program authorizes slightly more than \$2 billion for this part. Funds are directed to States via the Title I formula, and 75% of the funds must be used for a local competitive grant program.

For the local competitive grant program, grants are awarded to eligible entities that include:

- A district in partnership with a community-based organization, private sector business entity, or non-governmental entity;
- A community-based organization in partnership with a district and, if applicable, a private sector business entity or non-governmental organization;
- A private sector business entity in partnership with an district and, if applicable, a community-based organization or non-governmental organization.

The eligible entity must use grant awards for activities that are evidence-based, will improve student academic achievement, are allowable under State law, and focus on one or more projects from the following categories:

- Supplemental student support activities (ie. tutoring, after-school and extended day, but NOT athletics or in-school learning); and
- Classroom support activities (ie. subject specific programs, adjunct teacher programs and parent engagement, but NOT class size reduction, construction or providing compensation or benefits to teachers or school leaders).
- Allows states to award grants to eligible entities to develop and implement blended learning, increase student engagement, and arts education.

Awards to Nongovernmental Entities: Under this program, the state must award grants using at least 10% of the funds to public or private organizations, community-based or faith-based organizations, and business entities for programs that improve student achievement. These grants could be used for school vouchers.

Title IV - Impact Aid

The Kline bill makes some updates to the Impact Aid program and includes all special fixes for eligibility. This language was developed by National Association of Federally Impacted Schools (NAFIS) and is bipartisan, with the exception of authorization levels.

Title V – Indian Education

This language was adopted on the floor in the 113th Congress, this was the Young-Gabbard Amendment. The language provides educational support programs for American Indian, Alaska Native, and Native Hawaiian students, which are currently authorized under Title VII. The bill adds “representatives of Indian tribes” to the list of entities states must consult with when developing Title I plans.

Title VI – General Provisions

The Kline bill makes some updates to the general provisions in current law, including providing states and districts greater flexibility in use of administrative funds, consolidating applications for federal grants, obtaining state waivers (including restrictions on the Secretary that would undo the current waiver program), creating data dissemination practices consistent with the *Strengthening Education through Research Act*, removing the definition of “core academic subjects” to clarify federal funds can be used to support all academic subjects, and ensuring the equitable participation of private school children. Title VI also allows the Secretary to set aside up to 0.5% of every categorical program to evaluate and improve that program.

Background Checks

H.R. 5 took the provisions of the Fitzpatrick-Meehan Amendment from the 113th Congress that passed on the floor, and weakened several of the requirements. The background check language in H.R. 5 fails to:

- Ensure a fair appeals process for all employees and applicants to ensure that the checks are complete and accurate; and
- Require that all school employee and contractors with unsupervised access to children update their background check every five years.

The language also limits background checks to an employee’s current state of residence.

Title VI – Repeal

The Kline bill repeals Title VI of current law but folds it into Title I.

Title VII – Homeless Education

The Kline bill makes some updates to the McKinney-Vento program for homeless students to improve school stability, enhances school districts’ ability to identify homeless children and youth, and assists unaccompanied homeless youth to overcome unique educational challenges related to being without a home and without a parent or guardian. Despite an increase of 57% in

homeless students since 2009, the Kline bill decreases the program authorization by nearly \$9 million. Currently McKinney-Vento funds reach less than one in five local educational agencies.